

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

CAREN F. CORNELIUS, <i>et al</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. C-11-140
	§	
CHASE HOME FINANCE LLC,	§	
	§	
Defendant.	§	

ORDER

On this day came on to be considered Defendant's Motion to Dismiss for Failure to State a Claim, and in the Alternative, Motion for More Definite Statement (the "Motion"). (D.E. 4.)


Defendant Chase Home Finance LLC removed this action to this Court on April 29, 2011, and filed the Motion presently before the Court on May 6, 2011. (D.E. 1; D.E. 4.) Defendant seeks dismissal pursuant to Federal Rule of Civil Procedure 12(b)(6), arguing that Plaintiffs Caren F. Cornelius and Jean I. McTaggart cannot state a claim under the Texas Debt Collection Practices Act, or for common law unreasonable debt collection, or for injunctive relief. (D.E. 4 at 3-5.) In the alternative, Defendant moves for a more definite statement under Rule 12(e). (D.E. 4 at 5.)

On May 26, 2011, Plaintiffs filed an Amended Complaint. (D.E. 7.) Plaintiffs have also filed a Response to the Motion, in which they state that the Amended Complaint "addresses some of the concerns that Defendant Chase had with the State Court pleading and expands and illustrates the facts of the case in such a fashion that Chase can reasonably be expected to frame a responsive pleading," and that the filing of the Amended Complaint renders the present Motion moot. (D.E. 8 at 1-2.)

In light of Plaintiffs' Amended Complaint, Defendant's Motion to Dismiss the original petition is moot. See Pension Advisory Group, Ltd. v. Country Life Ins. Co., ___ F. Supp. 2d ___, 2011 WL 649350, at *1 n.1 (S.D. Tex. 2011) ("[T]he filing of an amended complaint . . . generally render[s] pending Rule 12(b)(6) motions to dismiss moot."); Borniski v. Williamson, 2003 WL 21468533, at *4 (N.D. Tex. June 20, 2003) ("Plaintiff has since filed an amended pleading in this action, thereby making Defendants' motion to dismiss Plaintiff's original complaint under Fed. R. Civ. P. 12(b)(6) moot.").

As such, the Court hereby DENIES AS MOOT Defendant's Motion to Dismiss for Failure to State a Claim, and in the Alternative, Motion for More Definite Statement. (D.E. 4.)

SIGNED and ORDERED this 31st day of May, 2011.


Janis Graham Jack
United States District Judge